

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-10 are pending; Claims 8-10 are newly added; and no claims are amended or canceled herewith. It is respectfully submitted that no new matter is added by Claims 8-10, as support may be found in the specification as originally filed.

In the outstanding Office Action, Claims 1, 6, and 7 were rejected under 35 U.S.C. § 102(e) as anticipated by Katz (U.S. Patent Publication No. 2001/0024173); Claim 2 was rejected under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Drews et al. (U.S. Patent Publication No. 2000/0202494, hereafter Drews); Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Hottinen et al. (U.S. Patent Publication No. 2002/0012380, hereafter Hottinen); and Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Bruckert et al. (U.S. Pat. No. 6,023,615, hereafter Bruckert).

With regard to the outstanding rejection of Claims 1, 6, and 7 under 35 U.S.C. § 102(e) as anticipated by Katz, that rejection is respectfully traversed.

Presently, certain mobile stations exist that are capable of receiving a directional beam. However, other mobile stations exist that are incapable of receiving a directional beam. Generally, base stations transmit directional beams using directional antennas even to mobile stations that are incapable of receiving a directional beam. Because mobile stations that are incapable of receiving a direction beam cannot receive the directional beam signal, network problems arise.¹

To overcome these difficulties, the Applicants developed the present invention, as recited in Claim 1. Claim 1 recites, in part:

¹ Specification, pages 4-5.

an antenna controller configured to determine whether or not the mobile station is capable of receiving the directional beam,

and select the directional antenna as an antenna for transmitting individual data in a case of being capable of receiving the directional beam,

or select the omnidirectional antenna as an antenna for transmitting the individual data in a case of being incapable of receiving the directional beam.

Independent Claims 6 and 7 recite analogous limitations.

Katz relates to a method of improving quality of a radio connection. Katz describes that when the traffic to be transmitted has grown heavier on the downlink than on the uplink, the base station system 126 has fewer opportunities to receive uplink radio signals. According to Katz, the downlink transmission parameters may not meet the requirements set by the situation when traffic becomes heavier on the downlink.²

Katz further describes that a sensitivity parameter S is used with the proportionality constant $\rho(T_m)$ to determine the width of the directional beam as transmitted from the base station. When the ratio $\rho(T_m)$ approaches 1, Katz describes to increase the width of the directional antenna beam within the value range above 0 and to stop using the directional antenna beam and to possibly even use an omnidirectional antenna when approaching 1.³

As this description indicates, Katz is not addressing whether or not a mobile station is capable of receiving a directional beam. Rather, Katz is addressing transmission functions at the base station, based on base station's antenna beam width. Accordingly, it is respectfully submitted that Katz fails to disclose or suggest the antenna controller of Claim 1. Similarly, Katz fails to disclose or suggest the antenna controller of Claim 6 and the selecting step of Claim 7. Therefore, it is respectfully requested that the outstanding rejection of Claims 1, 6, and 7 under 35 U.S.C. § 102(e) be withdrawn.

² Katz, paragraph [0045].

³ Katz, paragraph [0060].

With regard to the rejection of Claim 2 under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Drews, that rejection is also respectfully traversed.

As noted above, Katz fails to disclose or suggest the antenna controller of Claim 1, from which Claim 2 depends. Because Drews is not relied upon to provide the features identified as deficient in Katz, Drews is not substantively addressed herein.

Moreover, it is respectfully submitted that there is no basis in the teachings of either Katz or Drews to support the applied combination. Certainly, the outstanding Office Action fails to cite to any specific teachings within either Katz or Drews to support the applied combination. It is therefore respectfully submitted that the combination of Katz and Drews is the result of hindsight reconstruction in view of the Applicants' own inventive efforts as set forth in the present specification, and is improper.

Regarding the rejection of Claims 3 and 4 under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Hottinen, that rejection is also respectfully traversed.

Claims 3 and 4 depend from Claim 1. As noted above, Katz does not disclose or suggest the antenna controller of Claim 1. Because Hottinen is not relied upon to provide this feature identified as deficient in Katz, Hottinen is not substantively addressed herein.

It is also respectfully submitted that there is no basis in the teachings of either of Hottinen or Katz to support this combination. The Office Action again fails to cite to any specific teachings in either reference showing motivation for the combination. Thus, absent any motivation in the teachings of the references themselves, it is respectfully submitted that the combination of Hottinen and Katz is the result of hindsight reconstruction in view of the present specification, and is improper.

With respect to the rejection of Claim 5 under 35 U.S.C. § 103(a) as unpatentable over Katz in view of Bruckert, that rejection is also respectfully traversed.

Claim 5 depends from Claim 1. As explained above, Katz does not disclose or suggest the antenna controller of Claim 1. Bruckert is not relied upon by the outstanding Office Action to provide the antenna controller of Claim 1, so Bruckert is not substantively addressed herewith.


It is also respectfully submitted that there is no basis in the teachings of either Katz or Bruckert to support this combination. The Office Action again fails to cite to any teachings within either of Bruckert or Katz to provide motivation for the combination. It is therefore respectfully submitted that the combination of Bruckert and Katz is the result of hindsight reconstruction in view of the present specification, and is improper.

Newly added Claims 8-10 depend from Claims 1, 6, and 7, and are believed to patentably distinguish over the applied references for at least the reasons set forth for Claims 1, 6, and 7.

Consequently, in view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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